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February 3, 2015

VIA ECF

Honorable Pamela K. Chen, U.S.D.J.
U.S. District Court for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

**Re: Trustees of the Local 813 Pension Trust Fund et al v. Atlas Sanitation Co., Inc. et al
Civil Action No. 14-cv-05467 (PKC)(VVP)**

Dear Judge Chen:

As you know, this firm represents Defendant, Boro-Wide Recycling Corp. (“Boro-Wide”) in the above captioned matter.

Counsel for the parties appeared before your Honor on January 21, 2015 for a Pre-Motion Conference concerning Defendant Boro-Wide’s request to file a motion to dismiss. The Court granted Defendant Boro-Wide leave to file the motion, however, directed Boro-Wide to confirm whether they wish to pursue the motion no later than February 4, 2015.

This letter is to advise the Court and all counsel that Defendant Boro-Wide has decided not to pursue the motion to dismiss at this time.

Thank you for your time and consideration.

Respectfully submitted,

/s/ Robert J. Kipnees

Robert J. Kipnees

RJK:vrw

cc: Anthony S. Cacace, Esq. - via ecf
Joseph E. Clark, Esq. – via ecf
Steven N. Davi, Esq., - via ecf